



DEPARTMENT OF STATE

[Public Notice 11772]

Memorandum of Agreement Between the U.S. Department of State Bureau of Consular Affairs and Center for Excellence in Adoption Services

ACTION: Notice

SUMMARY: The Department of State (the Department) is the lead Federal agency for implementation of the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (the Convention), the Intercountry Adoption Act of 2000 (IAA), and the Intercountry Adoption Universal Accreditation Act of 2012 (UAA). Among other things, the IAA and UAA give the Secretary of State responsibility, by entering into agreements with one or more qualified entities and designating such entities as accrediting entities, for the accreditation of agencies and approval of persons to provide adoption services in intercountry adoptions. This notice is to inform the public that on June 2, 2022, the Department entered into an agreement with Center for Excellence in Adoption Services (CEAS), designating CEAS as an accrediting entity (AE) for five years.

The text of the Memorandum of Agreement is included in its entirety at the end of this Notice.

FOR FURTHER INFORMATION CONTACT: Marisa Light (202) 485-6024, Adoption@state.gov. Hearing or speech-impaired persons may use the Telecommunications Devices for the Deaf (TDD) by contacting the Federal Information Relay Service at 1-800-877-8339

SUPPLEMENTARY INFORMATION: The Department, pursuant to section 202(a) of the IAA, must enter into an agreement with at least one qualified entity and designate it as an accrediting entity. Accrediting entities may be (1) nonprofit private entities with expertise in developing and administering standards for entities providing child welfare services; or (2) state adoption licensing bodies that have expertise in developing and administering standards for entities providing child welfare services and that accredit only agencies located in that state. Both nonprofit accrediting entities and state accrediting entities must meet any other criteria that the Department may by regulation establish. IAAME is a nonprofit private entity with expertise in developing and administering standards for entities providing child welfare services.

The final rule on accreditation of agencies and approval of persons (22 CFR part 96) was originally published in the *Federal Register* (71 FR 8064-8066, February 15, 2006) and became effective on March 17, 2006. The final rule establishes the regulatory framework for the accreditation and approval function and provides the standards that the designated accrediting entities will follow in accrediting or approving adoption service providers. Under the UAA, adoption service providers working with prospective adoptive parents in non-Convention adoption cases need to comply with the same accreditation requirement and standards that apply in Convention adoption cases.

Angela M Kerwin,

Deputy Assistant Secretary for Overseas Citizens Services,

Bureau of Consular Affairs (CA/OCS),

U.S. Department of State.

MEMORANDUM OF AGREEMENT BETWEEN THE DEPARTMENT OF STATE BUREAU OF CONSULAR AFFAIRS AND CENTER FOR EXCELLENCE IN ADOPTION SERVICES

Parties & Purpose of the Agreement

The Department of State, Bureau of Consular Affairs (Department), and Center for Excellence in Adoption Services (CEAS), with its principal office located at 800 Westchester Avenue, Suite 641 North, Rye Brook NY 10573, hereinafter the “Parties,” are entering into this agreement for the purpose of designating Center for Excellence in Adoption Services (CEAS) as an accrediting entity under the Intercountry Adoption Act of 2000 (IAA), Pub. Law 106-279, and 22 CFR Part 96.

Authorities

The Department enters into this agreement pursuant to Sections 202 and 204 of the IAA, 22 CFR Part 96, and Delegation of Authority 261. CEAS has full authority to enter into this MOA under the authorization of CEAS’s Board of Directors.

Definitions

For purposes of this memorandum of agreement, terms used here that are defined in 22 CFR § 96.2 shall have the same meaning as they have in 22 CFR § 96.2.

The Parties **AGREE AS FOLLOWS:**

Article 1

Designation of the Accrediting Entity

The Department hereby designates CEAS as an accrediting entity and thereby authorizes it to accredit agencies and approve persons to provide adoption services in intercountry adoption cases, in accordance with the procedures and standards set forth in 22 CFR Part 96, and to perform all of the accrediting entity functions set forth in 22 C.F.R. § 96.7(a).

Article 2

Responsibilities of the Accrediting Entity

- 1) CEAS agrees to perform all accrediting entity functions set forth in 22 CFR § 96.7(a) and to perform its functions in accordance with the Convention, the IAA, the Intercountry Adoption Universal Accreditation Act of 2012 (UAA), Pub. Law 112-276, Part 96 of 22 CFR, and any other applicable regulations, and as additionally specified in this agreement. In performing these functions, CEAS will operate consistent with Department of State policies and written directives regarding U.S. obligations under the Convention and regarding the functions and responsibilities of an accrediting entity under the IAA, UAA, and any other applicable regulations.
- 2) CEAS agrees to perform such functions described in paragraph (1) over adoption service providers whose primary office is within its geographical jurisdiction, as assigned by the Department. Jurisdiction will be assigned on the basis of the primary office:
 - a. As reported by the adoption service provider to the accrediting entity for inclusion in the public adoption service provider directory as of the date this agreement is signed by both parties; or
 - b. In the case of adoption service providers not accredited or approved as of the date this agreement is signed by both parties, the primary office indicated in the initial application for accreditation or approval.

Any change of primary office or identification of other primary office by an adoption service provider after the date of signature of this agreement will not affect the assignment of jurisdiction.

- 3) CEAS will develop and utilize a Department-approved transition plan to accommodate any necessary transfer of work and records between designated AEs operating in jurisdictions not assigned to CEAS.

- 4) CEAS will take appropriate staffing, funding, and other measures to allow it to carry out all required accrediting entity functions and responsibilities, and will use the Adoptions Tracking System and the Complaint Registry (ATS/CR) as directed by the Department, including by updating required data fields in a timely fashion. CEAS is permitted to additionally use an independent data collection system of its choice consistent with 22 CFR §96.7(a)(7) and with Department authorization, provided that the use of independent data collection system does not adversely affect CEAS's submission of the required data to the Department using ATS and ATS/CR.
- 5) In carrying out its accrediting entity functions, CEAS will:
- a) make decisions on accreditation and approval in accordance with the procedures set forth in 22 CFR Part 96 and using only the standards in subpart F of 22 CFR Part 96 and the substantial compliance weighting system approved by the Department pursuant to paragraph 4, Article 3 below;
 - b) charge applicants for accreditation or approval only fees approved by the Department pursuant to paragraph 3, Article 3 below;
 - c) review complaints, including complaints regarding conduct alleged to have occurred outside the United States, in accordance with subpart J of 22 CFR Part 96 and additional procedures approved by the Department pursuant to paragraphs 2 c) and 2 d) in Article 3, below. CEAS will exercise its discretion in determining which methods are most appropriate to review complaints regarding conduct alleged to have occurred outside the United States, which may, when appropriate, include referring a complaint or other information relating to possible civil or criminal violation of IAA section 404 or other possible criminal activity to the Department and/or other appropriate law enforcement authorities for potential investigation;

- d) take adverse actions against accredited agencies and approved persons in accordance with subpart K of 22 CFR Part 96, and cooperate with the Department in any case in which the Department considers exercising its adverse action authorities because the accrediting entity has failed or refused after consultation with the Department to take what the Department considers to be appropriate enforcement action;
- e) assume full responsibility for defending adverse actions in court proceedings, if challenged by the adoption service provider or the adoption service provider's board or officers;
- f) refer an adoption service provider to the Department for debarment if it concludes after review that the adoption service provider's conduct meets the standards for action by the Secretary set out in 22 CFR § 96.85;
- g) promptly report changes in the accreditation or approval status of an adoption service provider to the Department and the relevant state licensing authority;
- h) maintain and use only the procedures approved by the Department and those procedures presented to the Department pursuant to Article 3 of this agreement whenever they apply;
- i) consult with the Department, when needed, to solicit greater clarity regarding the meaning of relevant laws and regulations; and
- j) at the Department's request, share information with the Department to assist the Department in carrying out its responsibilities.

Article 3

Training, Procedures, and Fees

- 1) **Accreditation Materials and Training:** In coordination with the Department and any other designated accrediting entities, CEAS will:
 - a) maintain forms, training materials, and evaluation practices;

- b) conduct or assist in conducting or participate in any training sessions;
 - c) develop and maintain resources to assist applicants for accreditation and approval in understanding the accreditation and approval process and the steps needed to demonstrate the agency or person has achieved substantial compliance with the applicable standards.
- 2) **Procedures:** CEAS will maintain procedures approved by the Department and update these, subject to the Department's approval, as needed:
- a) to evaluate whether a candidate for accreditation meets the applicable eligibility requirements set forth in 22 CFR Part 96;
 - b) to carry out its monitoring duties;
 - c) to review complaints referred to it through the Complaint Registry or act on information received directly from the Department;
 - d) to review complaints that it receives about its own actions as an accrediting entity for adoption service providers;
 - e) to make public the disclosures required by 22 CFR § 96.91;
 - f) to ensure the reasonableness of charges for the travel and maintenance of its site evaluators, such as for travel, meals, and accommodations, which charges shall be in addition to the fees charged under 22 CFR § 96.8; and
 - g) to implement and terminate adverse actions.

3) Fee Schedule:

- a) CEAS will maintain a fee schedule for accreditation and approval services that meets the requirements of 22 CFR 96, and update these, subject to approval by the Department. Fees will be set based on the principle of recovering no more than the full cost, as defined in OMB Circular A-25 paragraph 6(d)(1), of accreditation and approval services. CEAS will maintain a fee schedule developed using this methodology together with comprehensive documentation, and will provide

justification of the proposed fees to the Department for the Department's approval.

b) The approved fee schedule can be amended with the approval of the Department.

4) Substantial Compliance Weighting Systems:

a) CEAS will maintain and update a substantial compliance weighting system as described in 22 CFR 96 and as approved by the Department.

b) In maintaining the systems described in paragraph (a) of this section, CEAS will coordinate with any other accrediting entities, and consult with the Department to ensure consistency between the systems used by accrediting entities. These systems can be amended with the approval of the Department.

Article 4

Data Collection, Reporting and Records

1) Adoptions Tracking System/Complaint Registry (ATS/CR):

a) CEAS will maintain and fund a computer and internet connection for use with the ATS/CR that meets system requirements set by the Department;

b) The Department will provide software or access tokens needed by individuals for secure access to the ATS/CR and facilitate any necessary training for use of the ATS/CR.

2) Annual Report: CEAS will report on dates agreed upon by the Parties, in a mutually agreed upon format, the information required in 22 CFR § 96.93 as provided in that section through ATS/CR.

3) Additional Reporting: CEAS will provide any additional status reports or data as required by the Department, and in a mutually agreed upon format.

4) Accrediting Entity Records: CEAS will retain all records related to its accreditation functions and responsibilities in printed or electronic form in accordance with the electronic recordkeeping policy that applies to Federal acquisition contracts under

Federal Acquisition Regulation 4.703 for a minimum of 3 years after the termination of CEAS's designation as an accrediting entity, or until any litigation, claim, or audit related to the records filed or noticed within its period of designation is finally terminated, whichever is later. CEAS will be responsible for providing access to and transferring records necessary for another accrediting entity to perform its responsibilities and exercise jurisdiction over adoption service providers previously under the jurisdiction of CEAS.

Article 5

Department Oversight and Monitoring

- 1) To facilitate oversight and monitoring by the Department, CEAS will:
 - a) provide copies of its forms and other materials to the Department and give Department personnel the opportunity to observe any training sessions;
 - b) allow the Department to inspect all records relating to its accreditation functions and responsibilities and provide to the Department copies of such records as requested or required for oversight, including to evaluate renewal or maintenance of the accrediting entity's designation, and for purposes of transferring adoption service providers to another accrediting entity;
 - c) submit to the Department by a date agreed upon by the Parties an annual declaration signed by the President and Chief Executive Officer confirming that CEAS is complying with the IAA, UAA, 22 CFR Part 96, any other applicable regulations, and this agreement in carrying out its functions and responsibilities;
 - d) make appropriate senior-level officers available to attend any meetings with the Department upon request;
 - e) immediately report to the Department events that have a significant impact on its ability to perform its functions and responsibilities as an accrediting entity,

including financial difficulties, changes in key personnel or other staffing issues, legal or disciplinary actions against the organization, and conflicts of interest;

- f) notify the Department of any requests for information relating to its role as an accrediting entity under the IAA and UAA or Department functions or responsibilities that it receives from Central Authorities of other countries that are party to the Convention, or any other competent authority (except for routine requests concerning accreditation, or approval status or other information publicly available under subpart M of Part 96), and consult with the Department before releasing such information;
 - g) consult immediately with the Department about any issue or event that may affect compliance with the IAA, UAA, or U.S. compliance with obligations under the Convention.
- 2) **Departmental Approval Procedures:** In all instances in which the Department must approve a policy, system, fee schedule, or procedure before CEAS can bring it into effect or amend it, CEAS will submit the policy, system, fee schedule, or procedure or amendment in writing to the Department via email. Formal approval by the Department will be conveyed in writing by the Deputy Assistant Secretary for Overseas Citizens Services or her or his designee.
- 3) **Suspension or Cancellation:** When the Department is considering suspension or cancellation of CEAS's designation:
- a) the Department will notify CEAS in writing of the identified deficiencies in its performance and the time period in which the Department expects correction of the deficiencies;
 - b) CEAS will respond in writing to either explain the actions that it has taken or plans to take to correct the deficiencies or to demonstrate that the Department's

concerns are unwarranted within 10 business days or by another date mutually agreed upon by the Department and CEAS;

- c) upon request, the Department also will meet with the accrediting entity virtually or in person;
 - d) if the Department, in its sole discretion, is not satisfied with the actions or explanation of CEAS, it will notify CEAS in writing of its decision to suspend or cancel CEAS's designation and this agreement;
 - e) CEAS will stop or suspend its actions as an accrediting entity as directed by the Department in the notice of suspension or cancellation, and cooperate with any Departmental instructions in order to transfer adoption service providers it accredits or approves to another accrediting entity, including by transferring fees collected by CEAS for services not yet performed.
- 4) CEAS will follow its Department-approved procedures for reviewing complaints against CEAS received by the Department or referred to the Department because the complainant was not satisfied with CEAS's resolution of the complaint. These complaint procedures may be incorporated into the Department's general procedures for handling instances in which the Department is considering whether a deficiency in the accrediting entity's performance may warrant suspension or cancellation of its designation.

Article 6

Other Issues Agreed By the Parties

1) Conflict of Interest Provisions:

- a) CEAS shall disclose to the Department the name of any organization of which it is a member that also has as members intercountry adoption service providers.

CEAS shall demonstrate to the Department that it has procedures in place to

prevent any such membership from influencing its actions as an accrediting entity and shall maintain and use these procedures.

- b) CEAS shall identify for the Department all members of its board of directors or other governing body, employees, attorneys, and consultants who have a professional or personal affiliation with any adoption service providers, or of membership organizations who have adoption service providers as members, or who represent adoption service providers, or who provide legal advice or services in intercountry adoption. CEAS shall demonstrate it has procedures in place to ensure that any such relationships will not influence any accreditation or approval decisions, and shall maintain and use these procedures.
 - c) CEAS shall disclose to the Department any other situation or circumstance that may create the appearance of a conflict of interest.
- 2) **Liability:** CEAS agrees to maintain sufficient resources to defend challenges to its actions as an accrediting entity, including by maintaining liability insurance for its actions as an accrediting entity brought by agencies and/or persons seeking to be accredited or approved or who are accredited or approved, and to inform the Department immediately of any events that may affect its ability to defend itself (e.g., change in or loss of insurance coverage, change in relevant state law). CEAS agrees that it will consult with the Department immediately if it becomes aware of any other legal proceedings related to its acts as an accrediting entity, or of any legal proceedings not related to its acts as an accrediting entity that may threaten its ability to continue to function as an accrediting entity.
- 3) **Privacy and Data Protection:** CEAS agrees to take appropriate steps to ensure that all documents and information it receives about adoption service providers are safeguarded against unauthorized disclosure consistent with 22 CFR § 96.26 (a). CEAS shall maintain internal policies and procedures designed to ensure the integrity

and security of the data collected, handled, or stored in connection with its functions as an accrediting entity. CEAS agrees not to share or disclose any non-public information, including Department of State visa records protected under section 222(f) of the Immigration and Nationality Act (8 U.S.C. 1202(f)), shared with it by the Department, without prior authorization from the Department. CEAS agrees to promptly notify the Department in any cases where it knows or believes that an unauthorized disclosure has taken place.

Article 7

Liaison Between the Department and the Accrediting Entity

- 1) CEAS's principal point of contact for communications relating to its functions and duties as an accrediting entity will be the Executive Director, or his or her designate. The Department's principal point of contact for communication is the Chief of the Adoptions Oversight Division, or his or her designate.
- 2) The parties will keep each other currently informed in writing of the names and contact information for their principal points of contact. As of the signing of this Agreement, the respective principal points of contact are as set forth in Attachment 1.
- 3) CEAS acknowledges that information shared with the Department is subject to disclosure as required by U.S. law and regulations, to the extent that such information appears within an agency record as defined by 5 U.S.C. § 552, *et seq*, is subject to the Freedom of Information Act (FOIA). CEAS may not withhold required information from the Department for the purpose of avoiding potential public disclosure pursuant to FOIA.

Article 8

Certifications and Assurances

- 1) CEAS certifies that it will comply with all requirements of applicable State and Federal law.

Article 9

Agreement, Scope, and Period of Performance

1) Scope:

- a) This agreement is not intended to have any effect on any activities of CEAS that are not related to its functions as an accrediting entity for adoption service providers providing adoption services in intercountry adoptions.
- b) Nothing in this agreement shall be deemed to be a commitment or obligation to provide any Federal funds.
- c) All accrediting entity functions and responsibilities authorized by this agreement are to occur only during the duration of this agreement.
- d) Nothing in this agreement shall release CEAS from any legal requirements or responsibilities imposed on the accrediting entity by the IAA, UAA, 22 CFR Part 96, or any other applicable laws or regulations.

2) Commencement of responsibilities: CEAS's responsibilities under this agreement will commence upon approval by the Department of systems, procedures, and a fee schedule that, if applicable, are coordinated between CEAS and any other designated accrediting entity to ensure general consistency in accreditation systems and procedures, and general parity of fees. CEAS's responsibilities are subject to determination by the Department of jurisdictional boundaries between CEAS and any other designated accrediting entity.

3) Duration: CEAS's designation as an accrediting entity and this agreement shall remain in effect for five years from signature, unless terminated earlier by the Department in conjunction with the suspension or cancellation of the designation of CEAS. The Parties may agree mutually in writing to extend the designation of the accrediting entity and the duration of this agreement. If either Party does not wish to renew the agreement, it must provide written notice no less than one year prior to the

termination date, and the Parties will consult to establish a mutually agreed schedule to transfer adoption service providers to another accrediting entity, including by transferring a reasonable allocation of collected fees for the remainder of the accreditation or approval period of such adoption service providers.

- 4) **Changed Circumstances:** If unforeseen circumstances arise that will render CEAS unable to continue to perform its duties as an Accrediting Entity, CEAS will immediately inform the Department of State. The Parties will consult and make reasonable efforts to find a solution that will enable CEAS to continue to perform until the end of the contract period. If no such solution can be reached, the contract may be terminated on a mutually agreed date or, if mutual agreement cannot be reached, on not less than 14 months written notice from CEAS.
- 5) **Severability:** To the extent that the Department determines, within its reasonable discretion, that any provision of this agreement is inconsistent with the Convention, the IAA, the UAA, the regulations implementing the IAA and UAA, or any other provision of law, that provision of the agreement shall be considered null and void and the remainder of the agreement shall continue in full force and effect as if the offending portion had not been a part of it.
- 6) **Entirety of Agreement:** This agreement is the entire agreement of the Parties and may be modified only upon written agreement of the Parties.

Dated: May 27, 2022

Rena Bitter,

Assistant Secretary for Consular Affairs, U.S. Department of State

Dated: June 2, 2022

Jayne Schmidt,

Executive Director, Center for Excellence in Adoption Services

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